

7791-0071-25X CONT



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF: :
JOHN A. GIULIANI ET AL : EXAMINER: POINVIL
SERIAL NO: 09/286,304 :
FILED: APRIL 6, 1999 : GROUP ART UNIT: 2164
FOR: METHOD AND APPARATUS FOR
GENERATING PURCHASE
INCENTIVES BASED ON PRICE
DIFFERENTIALS

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#16
J. C. M.
10-2-01

REPLY BRIEF

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

I respectfully request that the appeal conference panel members reconvene and instruct the examiner to withdraw the rejection.

In reply to the examiner's answer mailed August 28, 2001, please note the following.

The examiner's answer states that the "brief does not contain a statement identifying related appeals and interferences." Examiner's answer page 2 line 1.

The undersigned points out that the appeal brief page 1 section III.B indicates that there are no known related pending appeals or interferences.

The examiner's answer admits that "Deaton et al. does not explicitly teach selecting incentive data based on the price of a second item." Examiner's answer page 4 lines 2-3.

The examiner presented a new basis for obviousness at page 7 lines 14-17, stating that:

Generating an incentive coupon based upon a price difference between a first item and a second item would have been obvious to one of ordinary skill in the art in order to encourage shoppers to purchase many types of items especially out of season items and/or items not easily sold for particular reasons.

The Deaton reference relied upon by the examiner does not provide the teaching asserted in the quoted sentence.

At page 8 lines 4-5 the examiner states that "arguments regarding the time of purchase or the condition for providing or generating incentive coupons based on time are not convincing."

In reply, and in the appeal brief, I did not present arguments distinguishing over the prior art based upon the time of purchase, at least not with respect to the independent claims.

There is absolutely no basis for the examiner's maintenance of the rejection, since the applied reference does not disclose or suggest elements of each one of the independent claims. I fail to see how the appeal conference panel members (primary Examiner Eric Stamber and Special Programs Examiner Robert Weinhardt) could have signed off on the examiner's answer.



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Respectfully submitted,

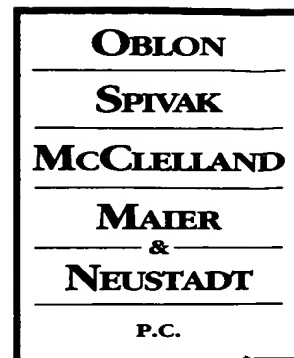
A handwritten signature in black ink, appearing to read "Richard A. Neifeld", written over the typed name.

Richard A. Neifeld, Ph.D.
Registration No. 35,299

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RE: U.S. Application
Serial No: 09/286,304
Filed: April 06, 1999
Group: 2164
Inventor: MICHAEL R. O'BRIEN ET AL.
For: METHOD AND APPARATUS FOR GENERATING
PURCHASE INCENTIVES BASED ON PRICE
DIFFERENTIALS

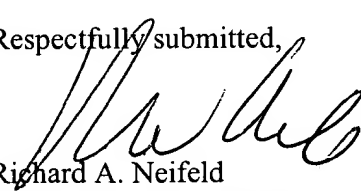
SIR:

Attached hereto for filing are the following papers:

REPLY BRIEF

Our check in the amount of \$ --0-- is attached covering any required fees. In the event that any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 CFR 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is attached.

Respectfully submitted,


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Attorney of Record



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